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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/415,392	10/08/1999	DMITRY A. RAYKHMAN	D21-001	4774

7590 02/05/2003

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EXAMINER

MCCLELLAN, JAMES S

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 02/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/415,392

Applicant(s)

RAYKHMAN, DMITRY A.

Examiner

James S McClellan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 and 55-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 and 55-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 30 December 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Amendment*

1. Applicant's submittal of an amendment was entered on December 30, 2002, wherein:  
claims 1-25 and 55-66 are pending;  
claims 26-54 and 67-73 have been canceled; and  
claims 1, 16, 17, 22, 55, 56, and 63 have been amended.

Applicant's submission of drawing corrections on December 30, 2002 is noted and approved for entry.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4-15, 58, and 61-66 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,980,826 (Wagner).

In regards to independent **claim 1**, Wagner discloses a method for trading a commodity comprising: receiving, in encoded form via a computer network, a plurality of bids and a plurality of offers pertaining to a common commodity (see Figure 23 which shows a list of buys and a list of sells); displaying said bids and offers on a computer monitor (see Figure 23); generating a trading offer including a trading rate or price per unit of said commodity (see Figure 23, PRICE), and a number of units of said commodity (see Figure 23, QTY is quantity);

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automatically calculating a total stop amount (see column 4, lines 33-36, "stop orders") for said trading offer; automatically comparing said total stop amount with an available amount in a client or trader account (see column 20, lines 57-58 and block 72 of Figure 2 which includes "accounting" functions); transmitting a digital signal encoding said trading over said computer network for distribution to multiple traders (see column 7, lines 41-44); **[claim 4]** automatically allocating or reserving said total stop amount from the available amount in said client or trader account (via clearing system 38 as shown in block 72 of Figure 2); **[claim 5]** canceling at least a portion of said trading offer and automatically returning at least a portion of the allocated or reserved amount to said client or trader account upon such cancellation (via button 682 and in column 13, lines 29-31); **[claim 6]** said digital signal is transmitted upon and only upon a determination that said total stop amount is less than the available amount in said client or trader account (via clearing system 38 as shown in block 72 of Figure 2); **[claim 7]** the generating of said trading offer and the comparing of said total stop amount with the available amount in said client or trader account are performed by a client or trader computer ("smart" remote terminals 18 and 20) connected to said computer network; **[claim 8]** the transmitting of said digital signal includes directing said digital signal to a server computer (central processor 13 of trading system 12) connected to said computer network, said server computer distributing said trading offer to said traders; **[claim 9]** the calculating of said total stop amount includes automatically multiplying a default stop per unit (inherent feature of system since the trading offer is calculated via a price and quantity) times the identified number of units (quantity) of said commodity in said trading offer; **[claim 10]** said trading offer additionally includes identification of a stop amount per unit of said commodity, the calculating of said stop amount includes automatically

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multiplying said stop amount per unit (inherent feature) of said commodity times the identified number of units (quantity) of said commodity in said trading offer; **[claim 11]** displaying on said monitor (see Figure 23) a prompt for entry of a stop value (inherent feature when implementing a system for conditional orders, see paragraph bridging columns 15 and 160; notice prompt for data entry in Figure 23); determining that a respective stop value has been selected for said trading offer, forwarding, via said computer network, said respective stop value to a server computer (13) together with said trading offer; **[claim 12]** displaying on said monitor (see Figure 23) a prompt for entry of a limit value (inherent feature when implementing a system for conditional orders, see paragraph bridging columns 15 and 160; notice prompt for data entry in Figure 23); determining that a respective limit value has been selected for said trading offer, forwarding, via said computer network, said respective limit value to a server computer (13) together with said trading offer; **[claim 13]** displaying on said monitor a prompt for entry of a limit value (inherent feature when implementing a system for conditional orders, see paragraph bridging columns 15 and 160; notice prompt for data entry in Figure 23) for which said trading offer remains valid and capable of being accepted; determining that a respective time period has been selected for said trading offer; determining when said time period is terminated (inherent by definition of a "time order"); canceling said trading offer upon termination of said time period (inherent by definition of a "time order"); **[claim 14]** displaying said bids in a first monotonic sequence on a computer monitor (see Figure 23, notice both buy and sell columns); simultaneously displaying said offers in a second monotonic sequence on said computer monitor (see Figure 23, notice both buy and sell columns); and **[claim 15]** displaying, on said computer

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monitor (see Figure 23), total units of said commodity for trading at prices identified in said bids and sad offers.

In order not to burden the Office Action with redundancy, limitations detailed above will not be repeated in the detailed analysis of the remaining claims.

In regards to independent **claim 58**, Wagner discloses a method for use in trading a commodity, comprising: acting on said trading offer only upon determining that said total stop amount and said available amount meet a predetermined criteria (via clearing system 38 at block 72 as shown in Figure 2); [**claim 61**] see detailed analysis set forth above for claim 4; [**claim 62**] see detailed analysis set forth above for claim 5; [**claim 63**] see detailed analysis set forth above for claim 1; [**claim 64**] see detailed analysis set forth above for claim 6; [**claim 65**] see detailed analysis set forth above for claim 7; and [**claim 66**] see detailed analysis set forth above for claim 8.

4. Claims 16, 17, 22, 55, and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,136,501 (Silverman et al. '501).

In regards to amended independent **claim 16**, Silverman et al. '501 discloses a method for trading currencies (see column 6, lines 25-26), comprising receiving, via a computer network (22), digital signals together encoding a plurality of bids (see column 6, lines 61-63, "enter a bid") and a plurality of offers pertaining to a common currency (see column 6, lines 61-63, "enter an offer"); displaying said bids in a first monotonic sequence on a computer monitor (see Figures 4 and 5); simultaneously displaying said offers in a second monotonic sequence on said computer monitor (see Figures 4 and 5); monitoring a computer input device (see column 7, lines 2-5, "pointing device such as a mouse"); upon detecting a signal from said input device (mouse)

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of a predetermined type, transmitting an order signal over said computer network to a server computer (20; see column 7, lines 5-13), said order signal encoding a trading order for requesting a transaction on one of said bids and said offers (see column 7, line 6, "transaction request"); **[claim 17]** displaying on said monitor a plurality of prompts for particulars of a trading offer (inherent), said prompts including prompts to enter a price per unit of said currency and a total number of units of said currency (see column 3, lines 42-44, "price, and available quantity"); determining entry via said input device (mouse) of a trading offer including at least said price per currency unit and said total number of currency units (see column 3, lines 42-44, "price, and available quantity"); and forwarding said trading offer over said computer network to multiple other traders on said computer network (see 26a, 26b).

In regards to amended independent **claim 22**, Silverman et al. '501 discloses a method for use in trading currencies, comprising: displaying, on a computer monitor connected to a computer (24a) in turn connected to a computer network (22, see Figure 1), a plurality of prompts (inherent) for particulars of a trading offer, said prompts including prompt to enter a price per unit currency and a total number of units of said currency (see column 3, lines 42-44, "price, and available quantity"); determining entry via an input device (see column 7, lines 2-5, "pointing device such as a mouse") of a trading offer including at least a price per currency unit and total number of currency units (see column 3, lines 42-44, "price, and available quantity"); and forwarding said trading offer to a server computer (10) over said computer network (22) for relay to other traders on said computer network (22).

In regards to amended independent **claim 55**, Silverman et al. '501 discloses a currency trading method comprising: receiving at a server computer (10) a first digital signal over a

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computer network (22) from client's computer (24a), said first digital signal ending a trading offer (see column 6, lines 61-63, "enter an offer") including identification of a currency, a trading rate or price per unit of said currency, and a number of units of said currency (see column 3, lines 42-44, "price, and available quantity"); operating said server computer (10) to maintain (i) a first queue of bids ordered by price per currency unit (see Figure 4, left hand side of figure) and times of extending of the respective bids (Fig. 4, "TIME ORDER OF BIDS") and (ii) a second queue of offers to sell ordered by price per currency unit (see Figure 4, right hand side of figure) and times of extending of the respective offers to sell (Fig. 4, "TIME ORDER OF OFFERS"); operating said server computer (10) to determine whether said trading offer matches any entry in said first queue and said second queue (see column 6, lines 61-63, "matching transaction"); upon detection by said server computer (10) of a match between said trading offer and a particular entry in said one of said first queue and said second queue, operating said server computer to (a) modify accounts of traders who made said trading offer and said particular entry (see column 7, lines 16-20, "payments and exchanges may be completed"), (b) remove said particular entry from said one of said first queue and second queue (inherent once transaction is complete); (c) transmit signals over said computer network (22) to advise all logged-in traders of the match (see column 7, line 46, "broadcast message"), and (d) sending specific confirmation to the traders who made said trading offer and said particular entry (message 32); [claim 56] said trading offer is placed in a respective one of said first queue and said second queue upon receiving of said trading offer at said server computer (10), the operating of said server computer (10) to determine whether said trading offer matches any entry in said first queue and said second queue including comparing said bids to said offers to sell to determine whether a match



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has occurred (see column 7, lines 7-9, "find matches"), said server (10) being operated, upon detection by said sever computer (10) of the match between said trading offer and said particular entry, to remove said trading offer and said particular entry from respective ones of said first queue and said second queue (see column 21, line 11, "removed from the system").

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2, 3, 59, and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner in view of Equis International AAIL Computerized Investing Newsletter May/June 1998 (hereinafter Equis).

Wagner discloses all the claimed steps as set forth above except for the step of including a slippage amount in the trading offer.

Equis teaches the use of a trading system that allows the system to account for slippage (see page 4, lines 20-24).

In regard to claims 3 and 60, it would have been obvious to calculate slippage by automatically multiplying a default slip per unit (price) of said commodity times the identified number of units (quantity) of said commodity in said trading offer since that is how Wagner calculates a trading offer, price times quantity.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wagner with the step of accounting for slippage as taught by Equis, because accounting for a slippage amount in a trading system “add[s] realism to a trading system” (see Equis, page 7, line 20).

6. Claims 18-20 and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silverman et al. ‘501 in view of U.S. Patent No. 6,029,146 (Hawkins et al.).

Silverman et al. ‘501 discloses all of the claimed steps as set forth above except for expressly disclosing displaying on a monitor a entry for a stop value [claims 18, 23], a limit value [claims 19, 24], and a time period [claims 20, 25] and including entry of each as part of the trading offer transmission.

Hawkins et al. teaches the steps of displaying on a monitor a entry for a stop value (see Figure 10, 448, “Stop Price”), a limit value (426, “Price Limit”), and a time period (422, “Time Limit”) and including entry of each as part of the trading offer transmission.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Silverman et al. ‘501 with the optional entry of stop values, limit values, and a time period as taught by Hawkins et al., because adding optional exchange requirements allow the user to customize the trading offer to meet his/her personal preferences and improve the versatility of the system.

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Silverman et al. in view of U.S. Patent No. 5,845,265 (Woolston).

Silverman et al. ‘501 discloses all of the claimed steps as set forth above except for the step of downloading from said computer network a program enabling and controlling the

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displaying of said bids and said offers on said computer monitor in response to said digital signal.

Woolston teaches the use of downloading a software from a global network (Internet, see column 4, line 64) for commercial use by a user (see column 3, lines 7-13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Silverman et al. '501 with step of downloading software from a global network as taught by Woolston, because downloading software is generally quicker and cheaper than buying software via mail or retail. Downloading software does not require expensive packaging and it does not require shipping delays.

8. Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Silverman et al. ('501) in view of U.S. Patent No. 5,924,082 (Silverman et al. '082).

Silverman et al. '501 discloses all of the claimed steps as set forth above except for the steps of operating said server computer to: supervise the establishment of multiple private chat forums; and distribute message among logged-in traders according to established chat forums.

Silverman et al. '082 discloses the steps of operating said server computer to: supervise the establishment of multiple private chat forums (via box 410, see Figure 4A); and distribute message among logged-in traders according to established chat forums.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Silverman et al. '501 with the dialog box of Silverman et al. '082, because the dialog box allows the traders to negotiate a trade without a complete commitment to the trade. This feature allows the traders to "test the water" before commitment to a trade, wherein providing a desirable feature to improve trading.

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*Response to Arguments*

9. Applicant's arguments filed December 30, 2002 have been fully considered but they are not persuasive.

On page 7, final paragraph, Applicant notes that changes have been made to the drawings to overcome the previous drawing objection. Applicant's submission of a drawing change is acknowledged and approved for entry. In response to Applicant's changes, the previous drawing objection is withdrawn.

On page 8, second full paragraph, Applicant notes that changes have been made to the specification to overcome the previous objection. Applicant's submission of amendments to the specification are acknowledged. In response to Applicant's changes, the previous objection of the specification is withdrawn.

On page 8, fourth full paragraph, Applicant notes that changes have been made to claims 1 and 63 to overcome objections to the claims. The claim objections are withdrawn.

On page 8, final two paragraphs, Applicants notes that changes have been made to the claims to overcome a 35 U.S.C. § 112 rejection of claim 56. The 35 U.S.C. § 112 rejection of claims 56 is withdrawn.

On page 10, first paragraph, Applicant argues that the Wagner fails to disclose a "total stop amount". Applicant argues that the Examiner "overlooked" the definition of the term (total stop amount) used by Applicant. Applicants states that "total stop amount" does not refer to a "stop order", but it signifies a monetary amount required to cover a stop execution. Applicant states that this definition is supported in the specification but failed to provide a citation. After carefully reviewing Applicant's disclosure, the Examiner is unable to find a clear definition of

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“total stop amount”. On page 3, line 11, Applicants states that a definition of a “total stop amount” will be found “below”. Then on page 3, lines 12-15, Applicant describes what may be included in a “total stop amount”, but fails to explicitly cite a definition. Additionally, on page 4, line 6-11, Applicant states how the “total stop amount” may be calculated, but fails to explicitly cite a definition. It must be noted that “[T]he PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art . . . .” *In re Morris*, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997). Additionally, it is noted, “The general rule is, of course, that terms in the claim are to be given their ordinary and accustomed meaning.” *Johnson Worldwide Assocs. v. Zebco Corp.*, 175 F.3d 985, 989, 50 USPQ2d 1607, 1610 (Fed. Cir. 1999). However, in this case the Examiner concludes that “total stop amount” is not a term well known in the art and does not maintain an ordinary meaning. As evidence, the Examiner notes that after performing a text search, the term “total stop amount” was not found in any of the approximately 6.5 million patents in the US Patent database. Additionally, an Internet text search on the term “total stop amount” produced no relevant information. Finally, the Examiner attempted to find a definition for “total stop amount” in *Barron’s Dictionary of Finance and Investment Terms, fifth edition*, but the dictionary failed to provide a definition for the term. “Absent an express definition in their specification, the fact that appellants can point to definitions or usages that conform to their interpretation does not make the PTO’s definition unreasonable when the PTO can point to other sources that support its interpretation.” *Morris*, 127 F.3d at 1056, 44 USPQ2d at 1029. In this particular case, the term “total stop amount” was not clearly defined in the specification as set forth in on page 10, lines 6-7 of the Remarks. In each instance within

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Applicant's disclosure (pages 3-4), Applicant's attempt at a definition of "total stop amount" is indefinite because of the use of the term "may include". For purposes of examination and in light of specification, the Examiner defined "total stop amount" as a commonly used term, "stop order". The Examiner utilized the definition of a stop order for a "total stop amount" because "stop order" is the closest art related definition that could be determined. It is noted that Applicant may be his own lexicographer when an explicit and definite definition is provided in the original disclosure. Since the Examiner determined that a definite definition is not provided in the original disclosure, the Examiner assumes that Applicant does not intend to be his own lexicographer.

On page 10, final paragraph (continued on page 11), Applicant argues that Wagner fails to disclose automatically allocating or reserving said total stop amount from the available amount in said client or trader account. In its broadest reasonable sense, Wagner inherently allocates said stop amount before the trade is initiated. Before a trade is processed a clearing house (38) confirms that sufficient funds are available within a users account (see column 9, lines 26-29).

On page 11, first full paragraph, Applicant argues the limitations of claim 6 are not disclosed by Wagner. Wagner discloses a clearing house (38) which verifies that the transaction amount is less than the funds in the user's account.

On pages 12-13, Applicant argues that Wagner fails to disclose the changes found in the amendment made to claims 16, 22, and 55. The Examiner agrees that Wagner does not show a method of trading currency. Applicant's amendment to claims 16, 22, and 55 necessitated a new grounds of rejection.

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On page 13, final paragraph, Applicant argues that Wagner does not anticipate claim 58 because Wagner fails to disclose a "total stop amount". Since this argument is directly related to the response of claim 1, see above for the response to the definition of "total stop amount".

### *Conclusion*

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

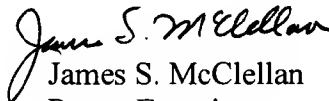
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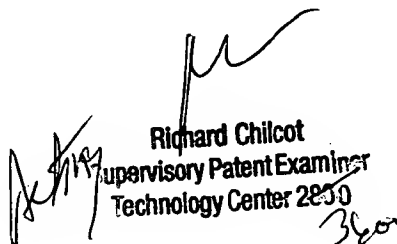
or faxed to:

(703) 305-7687 (Official communications) or  
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,  
Arlington, VA, 7<sup>th</sup> floor receptionist.

  
James S. McClellan  
Patent Examiner  
A.U. 3627

jsm  
January 30, 2003

  
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3627